UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,004	07/31/2003	Thomas Hackl	037068.52641US· ·	9537

23911	7590	03/10/2005

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EXAMINER
KRAMER, DEVON C

ART UNIT	PAPER NUMBER
3683	

DATE MAILED: 03/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	10/631,004	HACKL, THOMAS
	Examiner	Art Unit	
	Devon C Kramer	3683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 January 2005*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-11* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-11* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

U.S. Patent and Trademark Office

PTOL-326 (Rev. 1-04)   Office Action Summary   Part of Paper No./Mail Date 20050302

DETAILED ACTION

Specification

1)   Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as **"means" and "said,"** should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Rejections - 35 USC § 103

2)   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3)   Claims 1, 2, 9, and 11 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Seto (2002/0152015) in view of Chakraborty et al (5839534).

In re claim 1, Seto provides a system capable of controlling brakes of a

commercial vehicle, comprising: at least one of an adaptive distance regulation and

driving speed device (figure 1) which modulates an urgency signal based upon a hazard

variable (paragraph 31 and 32, step 006); an electronically controlled brake system (5)

designed to distribute a desired amount of braking force to a friction brake system and a

retarding brake (6); and wherein the electronically controlled brake system distributes

the desired amount of braking force to the friction brake system and the retarding brake

based upon the urgency signal. (Paragraph 31)

Seto lacks the teaching of an active retarding brake.

Chakraborty teaches the use of retarder in a similar system to that of Seto, but

Chakraborty teaches that electric and hydraulic retarders are capable of being

substituted for an engine brake. (Col. 7 lines 28-31)

It would have been obvious to one of ordinary skill in the art at the time of the

invention to have substituted the retarder of Seto with an active retarder as taught by

Chakraborty merely as an alternate means of providing a retarding braking force to the

vehicle, and also to provide a retard a vehicle in which engine braking does not provide

sufficient retarding force.

In re claim 2, see step 002 of Seto.

In re claim 9, Seto teaches a method for controlling brakes, capable of use on a

commercial vehicle, comprising: modulating an urgency signal based upon a hazard

variable (S002) via at least one of an adaptive distance regulation and driving speed

device (see abstract); distributing a desired amount of braking force to the friction

brakes and a retarding brake as a function of the urgency signal using an electronically

control brake system (s007).

Seto lacks the teaching of an active retarding brake.

Chakraborty teaches the use of retarder in a similar system to that of Seto, but Chakraborty teaches that electric and hydraulic retarders are capable of being substituted for an engine brake. (Col. 7 lines 28-31)

It would have been obvious to one of ordinary skill in the art at the time of the invention to have substituted the retarder of Seto with an active retarder as taught by Chakraborty merely as an alternate means of providing a retarding braking force to the vehicle, and also to provide a retard a vehicle in which engine braking does not provide sufficient retarding force.

In re claim 11, see the abstract of Seto.

5)   Claims 3-4, 5-6 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seto (2002/0152015) in view of Chakraborty et al (5839534).

In re claims 3-4 and 10, Seto as modified by Chakraborty lacks the specific teaching of the value ranges claimed. It would be obvious to regulate the braking force and retarder force based upon the urgency to avoid an obstacle to avoid injury to the vehicle's occupants. Seto teaches an arrangement where it is decided what the distance to the preceding vehicle is, it is then determined if engine control can decelerate the vehicle enough to avoid a collision, if this is not the case then the friction brakes and engine is controlled in a manner to bring the vehicle to the required speed to avoid a collision and to keep a safe distance between the vehicles.

In re claims 5-6, see the abstract of Seto and element (CPU).

6)   Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seto

(2002/0152015) in view of Chakraborty et al (5839534) and further in view of Wieder et

al (5864285).

In re claims 7-8, Seto teaches the use of what can be considered a CAN data

bus, but lacks the further control device.

Wieder et al teaches the use of a number of control devices (10, 12, 24, 30a) that

are connected using a CAN data bus (14).

It would have been obvious to one of ordinary skill in the art at the time of the

invention to have provided the brake control system of Seto as modified by Chakraborty

et al with the controllers and data bus as taught by Wieder et al to cut down on the

amount of wiring throughout the vehicle from the various sensors to the main control

unit and to cut down on the replacement costs of the single controller in case of failure.

Response to Arguments

7)   Applicant's arguments with respect to claims 1-11 have been considered but are

moot in view of the new ground(s) of rejection.

Conclusion

8)   Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

9)   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Devon C Kramer whose telephone number is 703-305-

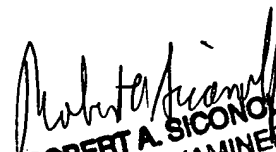0839. The examiner can normally be reached on Mon-Fri 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Charles Marmor can be reached on 703-308-0830. The fax phone number

for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

DK

ROBERT A. SICONOLFI
PATENT EXAMINER
3/7/05